P83

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF TITLE XI, PUBLIC LAW 95–561; PROBLEMS IN THE BIA PORTLAND AREA

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

HEARINGS HELD IN WASHINGTON, D.C., ON JULY 28 AND 29, 1980

Printed for the use of the Committee on Education and Labor

NEWARK PUBLIC LIBRARY

DEC 2 5 1980

U. S. GOVT. PUBS.
DEPOSITORY 376

U.S. GOVERNMENT PRINTING OFFICE
67-404 O WASHINGTON: 1980

Y4.Ed8/1:

COMMITTEE ON EDUCATION AND LABOR

CARL D. PERKINS, Kentucky, *Chairman*

FRANK THOMPSON, Jr., New Jersey
JOHN BRADEMAS, Indiana
AUGUSTUS F. HAWKINS, California
WILLIAM D. FORD, Michigan
PHILLIP BURTON, California
JOSEPH M. GAYDOS, Pennsylvania
WILLIAM (BILL) CLAY, Missouri
MARIO BIAGGI, New York
IKE ANDREWS, North Carolina
PAUL SIMON, Illinois
EDWARD P. BEARD, Rhode Island
GEORGE MILLER, California
MICHAEL O. MYERS, Pennsylvania
AUSTIN J. MURPHY, Pennsylvania
TED WEISS, New York
BALTASAR CORRADA, Puerto Rico
DALE E. KILDEE, Michigan
PETER A. PEYSER, New York
EDWARD J. STACK, Florida
PAT WILLIAMS, Montana
WILLIAM R. RATCHFORD, Connecticut
RAY KOGOVSEK, Colorado
DON BAILEY, Pennsylvania

JOHN M. ASHBROOK, Ohio
JOHN N. ERLENBORN, Illinois
JOHN H. BUCHANAN, Jr., Alabama
JAMES M. JEFFORDS, Vermont
WILLIAM F. GOODLING, Pennsylvania
MICKEY EDWARDS, Oklahoma
E. THOMAS COLEMAN, Missouri
KEN KRAMER, Colorado
ARLEN ERDAHL, Minnesota
THOMAS J. TAUKE, Iowa
DANIEL B. CRANE, Illinois
JON HINSON, Mississippi
THOMAS E. PETRI, Wisconsin

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

CARL D. PERKINS, Kentucky, *Chairman*

WILLIAM D. FORD, Michigan
IKE ANDREWS, North Carolina
GEORGE MILLER, California
AUSTIN J. MURPHY, Pennsylvania
BALTASAR CORRADA, Puerto Rico
DALE E. KILDEE, Michigan
PAT WILLIAMS, Montana
AUGUSTUS F. HAWKINS, California
MICHAEL O. MYERS, Pennsylvania
RAY KOGOVSEK, Colorado

WILLIAM F. GOODLING, Pennsylvania
JOHN H. BUCHANAN, Jr., Alabama
ARLEN ERDAHL, Minnesota
DANIEL B. CRANE, Illinois
JON HINSON, Mississippi
JOHN M. ASHBROOK, Ohio
(Ex Officio)

best copy available

CONTENTS

	Page
Hearings held in Washington, D.C., on:	
July 28, 1980	1
July 29, 1980	33
Statement of—	
Barlow, Earl J., Office of Indian Education Programs, Department of the Interior, accompanied by Carol Baker, Education Programs Administrator; Casey Velez, Education Specialist; and Susan L Wiley, Policy Analyst-Consultant to Office of Indian Education Programs	33
Edmo, Maxine, president, Advocates for Indian Education	2
Trahant, Mark, executive director, Affiliated Tribes of Northwest Indians, Advocates for Indian Education	28
Prepared statements, letters, supplemental material, etc.—	
Barlow, Earl, Director, Office of Indian Education Programs, Department of the Interior, prepared statement of, dated July 29, 1980	34
Clements, Warren R., municipal manager, the Confederated Tribes, Warm Springs Reservation of Oregon, prepared testimony of	44
Edmo, Maxine, president, Advocates for Indian Education, Spokane, Wash.:	
Bartch, David L., Education Specialist, Northern Idaho Agency, U.S. Department of the Interior, memorandum from, dated May 16, 1980	29
Kalian, A. H., Education Program Administrator, Olympic Peninsula Agency, U.S. Department of the Interior, memorandum from, dated May 15, 1980	24
Prepared statement of	3
Rifenbery, B. D., Community Services Officer (Education Programs), Puget Sound Agency, U.S. Department of the Interior, memorandum from, dated May 13, 1980	22
Sahmaunt, Spencer, Acting Area Education Program Administrator, U.S. Department of the Interior, memorandum from, dated May 9, 1980	26

blank page

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF TITLE XI, PUBLIC LAW 95-561—PROBLEMS IN THE BIA PORTLAND AREA

MONDAY, JULY 28, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:06 a.m., in room 2261, Rayburn House Office Building, Hon. Dale E. Kildee (acting chairman of the subcommittee) presiding.

Member present: Representative Kildee.

Staff present: Alan Lovesee, committee counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk, majority staff; and Jennifer Vance, senior minority legislative associate.

Mr. KILDEE. The subcommittee will come to order.

This hearing of the Elementary, Secondary, and Vocational Education Subcommittee will focus on the issue of administrative—element 10—funds to be allotted to the Portland area of the Bureau of Indian Affairs. It is a direct result of a request by the Advocates for Indian Education, the Warm Springs Tribes, and several other Indian organizations who have expressed grave concern at published figures showing a substantial reduction in the Portland funding.

I know that the Bureau has already looked into this problem and found that changes are necessary. However, we felt it would best serve the parties to create a public record on this matter. This will allow us to learn from this experience and preclude its repetition.

Additionally, since much of the problem was a function of the lack of adequate data collection and dissemination between the Bureau's divisions, it will help the committee to understand that situation and formulate solutions.

Unfortunately, problems within the Bureau have meant that the ability of the Bureau to testify has been delayed. I am not happy with this situation. However, in this case the committee has decided to go forward with the testimony of those who requested this hearing this morning. The Bureau, however, will appear before this subcommittee tomorrow afternoon to complete this record.

Our witnesses this morning are Maxine Edmo, president of the Advocates, and Mark Trahant, executive director.

You may proceed in any order you have determined, Ms. Edmo.

STATEMENT OF MAXINE EDMO, PRESIDENT, ADVOCATES FOR INDIAN EDUCATION, ACCOMPANIED BY MARK TRAHANT, EXECUTIVE DIRECTOR, AFFILIATED TRIBES OF NORTHWEST INDIANS, AIE

STATEMENT OF MAXINE EDMO, PRESIDENT, ADVOCATES FOR INDIAN EDUCATION

Ms. EDMO. Good morning, Mr. Chairman and members of the subcommittee.

First of all, I would like to submit for the record, our title, which is the Advocates for Indian Education. This is the educational arm of the Affiliated Tribes of the Northwest.

Mr. KILDEE. Very good.

Ms. EDMO. Our executive director, Mark Trahant, is here with me and I would like him to answer any questions also at the end.

Mr. KILDEE. Fine.

Ms. EDMO. OK.

We appreciate this opportunity to appear before you today to seek your help in resolving the threatened curtailment, if not total elimination, of vital education programs and services in the Northwest due to the implementation of Public Law 95-561, the Education Amendments Act of 1978.

I have submitted a prepared statement which I will briefly highlight.

[The prepared statement of Maxine Edmo follows:]

READEX FICHE

PREPARED STATEMENT OF MAXINE EDMO, PRESIDENT, ADVOCATES FOR INDIAN EDUCATION, SPOKANE, WASH.

Good morning. My name is Maxine Edmo, member of the Shoshone-Bannock Tribes in Idaho. Today, I am speaking to this Subcommittee in behalf of the Affiliated Tribes of Northwest Indians and their educational arm, the Advocates for Indian Education, of which I am the President.

Mr. Chairman and Members of the Subcommittee, we appreciate the opportunity to appear before you today to seek your assistance in resolving the threatened curtailment, if not total elimination, of vital education programs and services in the Northwest due to the implementation of P.L. 95-561, the Education Amendments Act of 1978. The drastic cutback in such programs is contemplated by the Bureau of Indian Affairs officials for fiscal year 1981.

By way of background, many tribes under the jurisdiction of the Bureau's Portland, Oregon Area Office (Washington, Oregon, and Idaho), acting in a spirit of self-determination, promoted a variety of community education programs that were funded by the

Bureau and contracted to the respective tribes for management and operation. Additionally, the Area Office, in the past, apparently was successful in justifying funding for 31 Education Specialists who, for the most part, were assigned to the BIA agency offices to serve Indian children and adults at the community and reservation levels. Attachment A provides a listing of tribal contracts and a brief narrative description of their purpose. Attachment B provides a listing of the Education Specialists by assignment. Attachment C provides a graph and the numbers of contracted programs for which education personnel have responsibility.

These educational developments are a reflection of the positive relationship that has been fostered between the Indian people and the Bureau staffs at the Area and Agency levels. If these proposed cuts are allowed to occur, the irony will be a penalty for success in a positive education program for Indian children.

Tribal communities in the Pacific Northwest have established education as the highest or next to highest priority. In concert with P.L. 93-638, The Self-Determination and Education Assistance Act, tribes must have this ability to develop their personal priorities. Again, these proposed funding cuts would destroy this ability.

Mr. Chairman, it is important to underscore that aside from Chemawa Boarding School, Oregon, there are no other Federal

school facilities to serve Indian children in the three state area. In other words, virtually all of the Indian children attend local public schools or the few community-controlled facilities operated by the tribes. It is estimated that 10,981 Indian children are currently enrolled in elementary and secondary public schools in the Area. Attachment D provides data reflecting where Indian children are currently attending school.

The community-based tribal education programs take on added significance in face of the almost total use of public school facilities by the Northwest tribes. These activities represent supplementary efforts on the part of Indian parents, educators and leaders to provide support to their children enrolled in the public schools, with many such schools being far-removed from Indian communities. In addition, the Education Specialists are involved in a wide-range of programmatic activities benefitting Indian children and adults. Unlike our fellow tribesmen on other reservations where the Bureau operates a network for educational facilities and programs the contract projects in the Northwest represent the only Bureau funded education activities for our people. The total cost for such activities is $1,111,730 and when compared to Bureau education expenditures for Indian children and adults in the Southwest, for example, this represents a modest outlay of Federal funds.

Ironically, the very reforms embodied in P. L. 95-561, the Education Amendments of 1978, may serve to wipe out these positive programs and staff in the Northwest. Based on our exhaus-

67-404 O—80——2

tive research of that statute, we have concluded that application of the mandated-formula at the outset of fiscal year 1980, which is designed to provide a more equitable allocation of funds for "school operations" in the Federal elementary and secondary school facilities, including the off-reservation Boarding Schools, led to targeting all such funds into the Federal facilities at the expense of programs and staffing in the Portland Area.

Fortunately, the Area Office was able to shift funds to permit continuation of the contract programs and the Education Specialists positions through fiscal year 1980. At best, this is an interim measure, and by no means offers permanent relief from our dilemma.

Bureau education staff currently is in the midst of an analysis of the budget to determine if other funds can be utilized to support the programs and positions through the forthcoming fiscal year. Otherwise, the outlook is grim. The harsh reality, absent interim funding relief through next year, is that the combined funding of $1,111,730 for the threatened activities in fiscal year 1980 will be reduced to a mere $265,700 in fiscal year 1981. Moreover for reasons we are unable to understand, Bureau Officials contend that these limited funds will be restricted for use at the Area Office only. We are certain you agree with our view on the absolute necessity of identifying interim funding for the threatened activities through fiscal year 1981 in order to work out a more lasting solution to this problem.

We in the Northwest applaud the untiring and dedicated work undertaken by this Committee that culminated in the sweeping Indian education reforms embodied in P.L. 95-561. We cannot believe, however that as sponsors of the authorizing legislation, you ever intended that it would lead to the wholesale elimination of long-standing programs and positions serving Indian children and adults in the Portland Area. We cannot identify anywhere in the lengthy legislative history of this statute nor at any time during the implementation process one shred of evidence that might have alerted Indian educators or tribal leaders in the Northwest to the adverse consequences this new statute held in store for our constructive education efforts. Instead, we were informed through abrupt, cold, impersonal, bureaucratic memoranda and announcements from Bureau staff at the Area and Central Office levels of the impending funding problems.

Given that the authorizing legislation for P.L. 95-561 originated in this Committee and given that the Department of the Interior was deeply involved in the legislative process while such legislation was under consideration by the Congress, we submit that both the Congress and Executive Branch must share a degree of responsibility and work with the Northwest Tribal leadership in finding a lasting solution to this matter.

It is our hope this hearing will accomplish several objectives. First, that the Administration will explain in clear and concise terms just how they propose to fund the threatened activities

through fiscal year 1981 while a lasting solution is being sought. Second, that through Administration and other testimony the Committee will be able to determine if the dilemma can be remedied administratively, or if amendatory legislation will be required for this purpose.

In the Northwest, many of the treaties made between the tribes and the federal government specifically detail the importance of education. In some cases, the treaties pledge the government will do whatever is necessary to insure quality educational programs.

Mr. Chairman, we trust that this Subcommittee will join the tribal leadership of Idaho, Oregon, and Washington in strenuously resisting unwarranted destruction of our positive educational efforts. Since the genesis of our problem lies in an inadvertent deficiency in a statute promulgated by this Committee, we ask your help in seeking a final solution to our mutual problem.

We thank this Committee again for providing an impartial forum to hear our views on this matter. Our panel would be pleased to respond to any questions from the Committee.

ATTACHMENT A

ALL EDUCATION P.L. 93-638 CONTRACTS ENTERED

INTO FY 1980

PROGRAM TITLE	CONT. or P.O. #	ACCT. INFO.	TOTAL DIR & IND OBLIG.	TOTAL DIR OBLIG.	TOTAL IND OBLIG.
			BURNS-PAIUTE		
				(J) 5,200.00	(J) 5,200.00
J.O.M.	6202	3112-1290	15,439.05	10,555.00	4,884.05
Special Ed.	6202	3115-1063	4,454.00	3,400.00	1,054.00
ADULT ED.	6202	3115-1362	7,860.00	6,000.00	1,860.00
SUMMER PROG.	OP09-335	3115-1462	1,048.00	800.00	248.00
			CHEHALIS		
		7115-1063		13,838.00	
Adult Educ.	6332	2660-1063	51,199.40	27.619.00	9,742.40
			COEUR D'ALENE		
		3115-1190		104,200.00	
TRIBAL SCHOOL	6127	3115-1862	133,663.40	23,000.00	6,463.40
			COLVILLE		
ADULT ED.	6334	3115-1362	162,750.44	142,000.00	20,750.44
			KALISPEL		
SUMMER YOUTH	6152	3215-2166	16,320.10	13,000.00	3,320.10
			KOOTENAI		
		3115-1090		17,298.00	
CULT. STUDIES	6285	3115-1461	19,298.00	2,000.00	0
			LOWER ELWHA		
		3113-1365		35,650.00	
Educ. Prog.	6298	3115-1090	65,445.78	22,224.05	7,571.73

PROGRAM TITLE	CONT. or P.O. #	ACCT. INFO.	TOTAL DIR & IND OBLIG.	TOTAL DIR OBLIG.	TOTAL IND OBLIG.
			LUMMI		
J.O.M.	6172	3112-1290	63,190.00	55,625.00	7,565.00
J.O.M.	6170	3112-1290	8,860.80	7,800.00	1,060.80
			MAKAH		
J.O.M.	6258	3112-1290	35,343.47	35,343.47	0
		3115-1063		2,965.00	
		3115-1090		5,285.00	
Adult Educ.	6328	2660-1063	15,000.00	6,750.00	0
			MUCKLESHOOT		
J.O.M.	6179	3112-1290	53,987.74	41,561.00	12,426.74
ADULT BAS.ED	6178	3115-1362	192,727.31	149,137.00	43,590.31
J.O.M.-Head St.	6176	3112-1290	10,857.04	8,358.00	2,499.04
			NEZ PERCE		
ED.RES.CENT 2	6145	3115-1090	44,974.80	38,440.00	6,534.80
TRIBAL SCH.	6146	3215-2361	20,536.00	17,811.00	2,725.00
		1974-18--			
HANDICAPPED	6354	3115-18--	11,041.29	9,437.00	1,604.29
			PORT GAMBLE		
EARLY CHILD ED.	6212	2660-1063	48,321.83	39,627.00	8,694.83
ED. CENTER	6213	3115-1362	19,836.40	16,069.00	3,767.40
			PUYALLUP		
		3112-1290		22,850.00	
		3115-1168		238,827.70	
		3115-1790		633,060.00	
TRIBAL SCH.	6174	3115-18--	1,177,219.17	84,911.00	197,570.47

PROGRAM TITLE	CONT. or P.O. #	ACCT. INFO.	TOTAL DIR & IND OBLIG.	TOTAL DIR OBLIG.	TOTAL IND OBLIG.
		QUINAULT			
ADULT ED.	6353	3115-1063 2660-1063	15,000.00	1,680.00 13,320.00	
		SHOSHONE-BANNOCK			
J.O.M.	6297	3112-2163	10,259.00	10,259.00	0
SUMMER YOUTH	6357	3115-1490	38,516.43	32,770.00	5,746.43
A.T SCH.	6233	3115-1190	150,161.96	119,278.75	30,883.21
ADULT LEARNG.	6296	3115-1362	69,212.80	52,855.00	16,357.80
		SILETZ			
J.O.M.	6248	3112-1290	80,542.86	65,482.00	15,060.86
		SKOKOMISH			
ADULT ED.	6186	2660-1063 3115-1063	53,161.92	6,424.00 34,596.00	12,141.92
		SQUAXIN ISLAND			
ADULT ED.	6337	2660-1063 3115-1063	25,813.17	12,023.00 7,400.00	6,390.17
		SUQUAMISH			
SUMMER YOUTH	OP10 205	2660-1461	7,063.52	5,607.00	1,456.52
		SWINOMISH			
EARLY CHILD-HOOD	6188	3112-1290	2,940.53	2,358.08	582.45
ED CENTER	6304	3115-1362	80,565.32	64,845.00	15,720.32
		UMATILLA			
PEND. J.O.M. 16R	6120	3112-1261 (J)	11,464.11 43,850.00	(J) 11,464.11 43,850.00	0

PROGRAM TITLE	CONT. or P.O. #	ACCT. INFO.	TOTAL DIR & IND OBLIG.	TOTAL DIR OBLIG.	TOTAL IND OBLIG.
		UMATILLA (cont'd)			
PILOT, J.O.M.		(J)	3,360.38	(J) 3,360.38	
2R	6119	3112-1261	4,400.00	4,400.00	0
ATH. J.O.M.		(J)	3,722.39	(J) 3,722.39	
29R	6118	3112-1261	6,500.00	6,500.00	0
ADULT ED.	6205	3115-1362	37,800.00	37,800.00	0
		WARM SPRINGS			
SUMMER YOUTH	6303	3115-1461	20,200.00	20,200.00	0
		3112-1290 (J)	54,284.00	(J)54,284.00	
J.O.M.	6306	3112-1290	133,076.59	118,522.00	14,554.59
		YAKIMA			
J.O.M.	6157	3112-1290	234,370.78	218,338.92	16,031.86
HANDICAPPED	6156	1974-1863	9,653.00	9,653.00	0
ELE/SEC SCH.	6293	3115-1090	43,541.48	36,353.00	7,188.48
		ST. OF IDAHO			
J.O.M.	6257	3112-1262	213,808.00	213,808.00	0
ADVOCATES	6289	3115-1090	30,000.00	30,000.00	0
		ST. OF WASH			
J.O.M.	6259	3112-1262	552,081.00	552,081.00	0

ATTACHMENT B

PORTLAND AREA STAFFING

Type of Position	1979	1980	1981	1982
Permanent Professional	16	16	10.5	10.5
Permanent Support	14	14	11.5	11.5
Temporary Support	5	4	0	0
Furlough Professional	1	1	0	0

ATTACHMENT B

PORTLAND AREA BIA EDUCATION STAFFING ANALYSIS

OLYMPIC PE INSULA: Five (5) staffers (2 Ed. Specialists, 3 Sect/Clerks) serving eleven (11) tribes with twelve (12) JOM school districts, one tribal school, and all educational activities that the BIA holds trust responsibility for.

Tribes		JOM School Districts	
Chehalis	Squaxin Island	Chehalis	Hood Canal
Skokomish	Lower Elwa	Neah Bay	Queets
Makah	Quileute	North Beach	Lake Quinault
Quinault	Hoh	North Kitsap	Sequim
Suquamish	Jamestown Clallam	Oakville	Quinault
Port Gamble		Port Angeles	Shelton

PUGET SOUND: Two (2) staffers (1 Ed. Specialist, 1 Sect.) serves seven (7) tribes with eleven (11) JOM school districts, a tribal population of 6,167 Indians, and one tribal school.

Tribes	JOM School Districts	
Muckleshoot	Auburn	Mount Baker
Lummi	Bellingham	Nooksack Valley
Puyallup	Ferndale	North Thurston
Swinomish	Fife	Puyallup
Tulalip	La Conner	Yelm
Nooksack	Marysville	
Nisqually		

In WESTERN WASHINGTON, seven (7) BIA staffers serve 32 tribes, a tribal population of 10,073 in an area that has within it 109,410.42 Trust acres, 22 JOM School Districts and 2 tribally operated schools.

EASTERN WASHINGTON: Six (6) BIA staffers (4 Ed. Specialists, 2 Sect.) serve two agencies, four tribes, seventeen (17) JOM school districts, a tribal population of 14,482, a trust acreage of 2,309,342.41.

COLVILLE agency has 1 Ed. Specialist and 1 support staffer with 7 JOM school districts, 1 tribally operated boarding school.

SPOKANE agency which also serves the CALISPEL tribe has no BIA Education staff, has 4 JOM school districts, and a trust area of 138,201.28 acres.

YAKIMA agency has 3 Ed. Specialists, 1 Sect., serving 6 JOM school districts, 1 tribally operated school, and a trust area of 1,141,101.69 acres.

67-404 O—80——3

IDAHO:

FORT HALL agency serves the Shoshonne-Bannock and Duck Valley with 3 Education Specialists and 3 support staff, a tribal population of 3,003, four (4) JOM school districts, and a trust area of 523,204.31 acres. Fort Hall also has a tribal school.

JOM school districts are: American Falls, Blackfoot, Pocatello, and Duck Valley.

NORTHERN IDAHO agency serves three tribes, the Nez Perce, Coeur d'Alene, and Kootenai, with 1 Education Specialist and 3 secretaries; a tribal population of 3,825, and a trust area of 159,227.36 acres with eleven (11) JOM school districts, and two tribally operated schools.

JOM school districts are:

Bonners Ferry	Lapwai
Culdesac	Lewiston
Grangeville	Orofino
Kooskia	Plummer
Highland	Worley
Kamiah	

For the state of Idaho, the Portland BIA Area Office has 4 Education Specialists and 6 support staffers to serve five (5) tribes, 15 JOM school districts and 3 tribally operated schools in an area having 682,431.67 trust acres.

OREGON:

SILETZ agency has no BIA Education staff, but has a tribal population of 1100, and four (4) JOM school districts: Salem, Siletz, Springfield, and Eugene.

UMATILLA agency has 1 Education Specialist, and 1 Secretary to serve a tribal population of 1,500, four (4) JOM school districts: Athena, Pendleton, Hermiston, and Pilot Rock. The trust acreage is 85,322.44.

WARM SPRINGS agency serves Burns, also, with 1 Education Specialist and 1 support staff; four (4) JOM school districts, a tribal population of 2,254 and a trust area of 657,044.14 acres. The JOM school districts are: Burns, Dalles/Petersburg, Madras, and Warm Springs Pre-School.

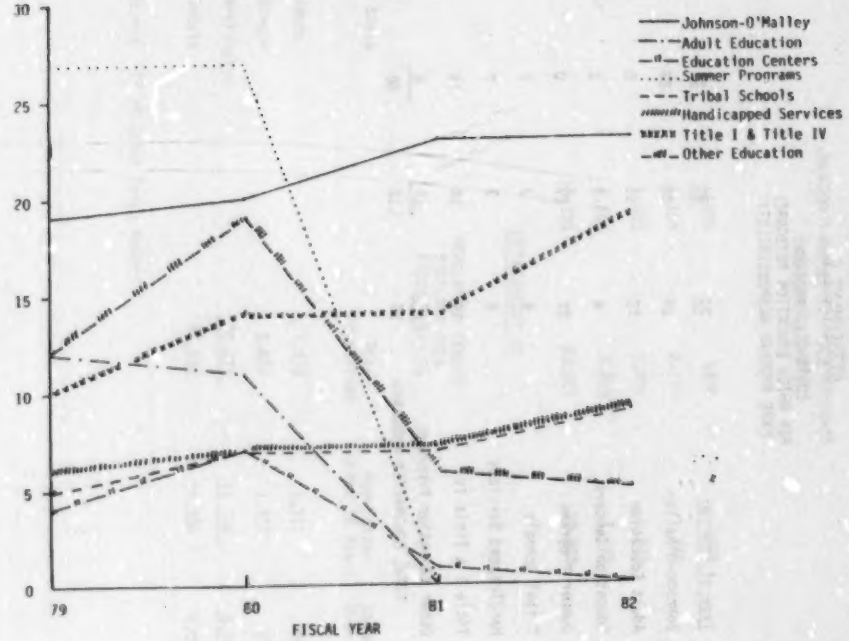
CHEMAWA, the only BIA operated boarding school in the Portland Area, falls under the supervision of the Portland Area Office Education service.

PORTLAND BIA AREA OFFICE has an education staff of 2 Education Specialists, 2 Education technicians, and 2 Secretaries, to service those tribes having no Education personnel.

In summary, the Portland Area Education personnel of six with twenty-seven field staffers (including secretaries) must provide services to 45 tribes with 67 JOM school districts, 7 tribally operated schools and one BIA operated school for a tribal population of 36,237 (conservative figure) and a trust area of 3,933,551.08 acres.

ATTACHMENT C

CONTRACTED PROGRAMS FOR
WHICH EDUCATION PERSONNEL HAVE
PROGRAM RESPONSIBILITY



ATTACHMENT C

CONTRACTED PROGRAMS
FOR WHICH EDUCATION PERSONNEL
HAVE PROGRAM RESPONSIBILITY

Type of Program	79	80	81	82
Johnson-O'Malley	19	20	23	23
Adult Education	12	11	0	0
Education Centers	4	7	1	0
Summer Programs	27	27	0	0
Tribal Schools	5	7	7	9
Handicapped Services	6	7	7	9
Title I & Title IV	10	14	14	18
Other Education Programs	12	19	6	5
TOTAL CONTRACTED PROGRAMS	95	112	58	64

ATTACHMENT D

JOHNSON-O'MALLEY ELIGIBLE STUDENTS
PORTLAND AREA

	1978	1979	1980
Idaho	2,106	2,137	1,944
Oregon	1,623	1,701	1,733
Washington	6,606	6,819	7,128
Total	10,335	10,657	10,805

ATTACHMENT D

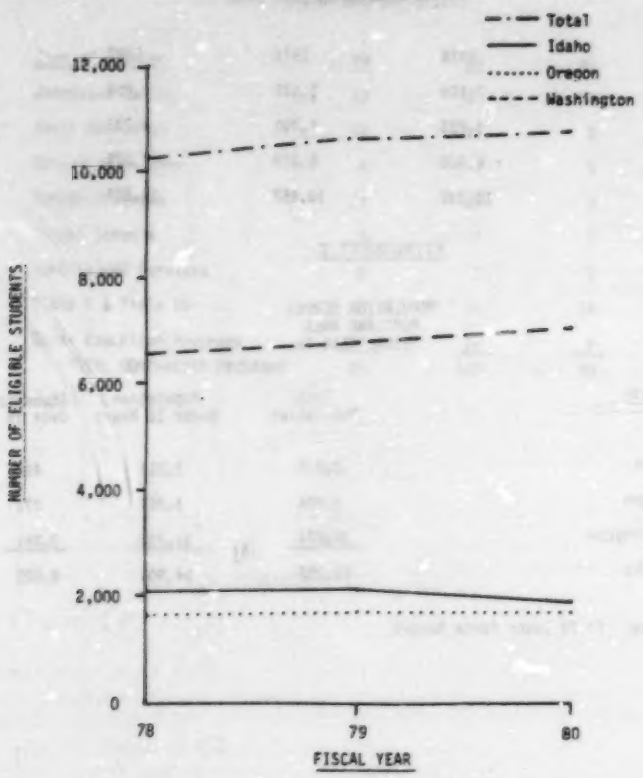
POPULATION SERVED
PORTLAND AREA
FISCAL YEAR 79

State	Total Population	Population Under 16 Years	Students Over 16
Idaho	5,638	1,811	490
Oregon	3,826	1,357	271
Washington	35,874	11,736	3,261
Totals	45,338	14,904	4,022

Source: FY 79 Labor Force Report

ATTACHMENT D

JOHNSON-O'MALLEY ELIGIBLE STUDENTS
PORTLAND AREA



ATTACHMENT D

CHEMAWA AND TRIBAL SCHOOLS

Schools	1979	1980	1981
Chemawa	$2,376,253	$2,257,802	$1,751,989
Quileute	0	153,238	148,764
Yakima	52,390	340,867	226,244
Puyallup	443,400	502,411	576,620
Nez Perce	10,000(1)	136,643	98,255
Fort Hall	85,300	134,237	186,898
Paschal Sherman	486,400	708,278	545,156
Coeur d'Alene	84,800	268,995	228,010
Muckleshoot	-	(2)	(2)
Lummi	-	-	(3)

(1) September operation only

(2) Contract Application for planning purposes submitted for FY 80 funding and will be re-submitted for FY 81

(3) Contract Application for operations will be submitted by 7/1/80 for FY 81 funding

Ms. EDMO. First, in the Northwest we have long recognized the importance of our education programs. Therefore, based on the spirit of self-determination, we have moved forward with creative community education programs. Many of these programs were funded by the BIA and contracted to the respective tribes for management and operation.

In addition, the BIA Portland Area Office, which serves the tribes of Idaho, Oregon, and Washington, has been successful in justifying funding for 31 education positions. Most of these positions are at the reservation agency level where they are most needed and utilized.

The total funding for the contracts and education is $1,111,730 for fiscal year 1980.

We have included various attachments describing these contracts and the work of the education personnel.

Mr. Chairman, these developments are a result of a positive relationship between the Indian people and the BIA staffs at both the area and agency levels. It's ironic; if these cuts are allowed to occur we will, in fact, be penalized for our success.

Tribal leadership has established education as the highest or next to highest priority. In concert with Public Law 93-638, the Indian Self-Determination and Education Assistance Act, tribes now have the ability to design improved methods for education of Indian children—with the Government fulfilling its contractual obligation at adequate funding levels.

One of the differences in the Northwest is the number of Indian children in the public school system, almost 11,000 at the present time. The only Federal boarding school that serves Indian children in our area is Chemawa, Oreg. We are now providing alternative forms of education as well, such as tribal schools or other community-controlled facilities.

These community-based tribal education programs are of added importance because of the number of Indian students in the public school systems. Supplemental programs are designed to enhance the standard educational progress.

At my home, the Fort Hall Indian Reservation located in southern Idaho, we have used such programs to emphasize recreation programs. Although recreation is not formal education, it is community activity that enhances education. For instance, many youths would not even consider staying in school if they did not have to keep their grades up to remain eligible for basketball, football, or other competitive sports.

If the Fort Hall recreation program were forced to close, I am sure we would see an immediate increase in the social ills we are all pledged to end, such as alcoholism, drug abuse, and even suicide. Other similar programs, again at Fort Hall, are tailored with the concept of the actual mission of BIA education, "from early life through death."

Our programs and funding are threatened, we are told, because of the mandated formula in Public Law 95-561.

Fortunately, the area office was able to shift funds to permit contract programs and the education specialist positions through fiscal year 1980. This was done with the help of tribal governments who reminded the area office which programs were most important. This measure, at best, is interim and by no means does it offer permanent relief from our dilemma.

Again, for fiscal year 1981, we will need an interim solution. This is needed so that all ongoing programs will be able to continue.

It is our hope that this hearing will accomplish several objectives: first, that the administration will explain in clear and concise terms just how they propose to fund the threatened activities through fiscal year 1981; second, that through administration and other testimony the committee will be able to determine if the dilemma can be remedied administratively, or if amendatory legislation will be required for this purpose.

We would like to applaud the untiring and dedicated work undertaken by this committee that culminated in the sweeping Indian education reforms embodied in Public Law 95-561. We cannot believe, however, that as the sponsors you ever intended that it would disrupt our educational progress for Indian children and adults in the Portland area.

Given that authorizing legislation for Public Law 95-561 originated in this committee, and given that the Department of Interior was deeply involved in the legislative process while such legislation was under consideration, we submit that both the Congress and the administration must share a degree of responsibility and both should work with the Northwest tribal leadership in finding a lasting solution to this matter.

The other thing is, I am very disappointed in the way this hearing was handled. The BIA should have been here to answer questions. We came here at considerable expense in time and money. So I would hope that we could hear solutions to our concerns.

We thank you for this impartial forum and allowing me the opportunity to share this view and our panel will now be pleased to answer any questions from this committee.

Mr. KILDEE. You asked whether there could be an administrative remedy for the formula for the administrative funding. Certainly there can be, because the formula for administrative funding was not mandated by Public Law 95-561. Only the formula for school operations was mandated by 95-561. We did that, because there was a lack of consistency throughout the country on that.

The formula for administrative funds was done administratively and any remedy can be handled administratively. We certainly will be watching that very closely. I think we have accomplished something already. You will certainly be watching that closely, too. However, 95-561 merely mandated the formula for school operations, not the administrative cost formula for the various regions.

Had the Bureau not resolved the problem—and we will get their resolution on the record hopefully tomorrow—what programs would have been adversely affected and what other effects would we have had had they stuck to their original result of the formula which they applied?

Ms. EDMO. For the record, I would just like to submit also copies of the memorandum that was sent out from the acting area program administrator, Portland, to the tribes, asking them just what programs would be eliminated if the administration should be eliminated.

I would like to submit that for the record. I do not believe it is in our testimony.

Mr. KILDEE. Without objection that will be made part of the record.

[The information referred to above follows:]

67-484 O—90——4

IN REPLY REFER TO

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Puget Sound Agency
3006 Colby Avenue, Federal Building
Everett, WA 98201

May 13, 1980

Memorandum

To: Act. Area Education Programs Administrator
Portland Area

From: Community Services Officer (Education Programs)
Puget Sound Agency

Subject: Fiscal Year 81 Program Administration

Based on the FY 81 Tentative Allocations for Element 10, this office will program our FY 81 Tentative Allocations for Element 13 into Program Administration. Additional funds will be programmed from Johnson-O'Malley Allocations for JOM Contract Monitoring Costs.

The two Education Center Contracts, Swinomish and Port Gamble, initiated in FY 80 will be discontinued.

Staffing for the Puget Sound Agency's Education Office will consist of 1 Professional Educator and 1 Education Technician. This staff, will have to manage 8 on-going and 3 possible Johnson-O'Malley Program Contracts, 150 Higher Education Grant Students, 1 Tribal School System Contract, 3 flow through funded contracts and provide technical assistance to 12 recognized tribes within the jurisdiction of this Agency.

B. D. Rifenbery

Noted: _____
Superintendent

RECEIVED
1980 MAY 13 AM 10 28
EDUCATION PROGRAM
AFFAIRS
PORTLAND AREA

Ms. EDMO. This is from the program administrator at Olympia. I would like to read a portion of one agency's response to the Element 10 formula. It states:

Based upon our fiscal year 1981 tentative allocations for Element 10, we propose to take the following action:

1. Program our element 1362 funds into program administration.
2. Consider programing some JOM contract funds into program administration for the purpose of JOM contract monitoring.
3. Discontinue learning center contracts at the Skokomish and Chehalis Reservations.
4. Discontinue adult education contracts at Quinault, Makah, Shoalwater, Squaxin Island, Lower Elwha, and Quileute Reservations.

Staffing of the Olympic Peninsula Education Office will consist of one professional educator and one education technician. This staff will manage one tribal school system contract, four JOM contracts, and four ongoing JOM programs.

So this is just an example of just one agency.

Mr. KILDEE. Without objection that will be made part of the record.

[The information referred to above follows:]

IN REPLY REFER TO
Education

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Olympic Peninsula Agency
P. O. Box 120, Post Office Bldg.
Hoquiam, Washington 98550

Bureau of Indian Affairs
RECEIVED
MAY 19 1980
PROGRAM PLANNING
PORTLAND A

May 15, 1980

Memorandum

To: Area Director, Portland Area
Attn: Acting Area Education Program Administrator

From: Education Program Administrator, Olympic Peninsula Agency

Subject: 1981 Tentative Allocation - Elelment 10

Based upon our FY 1981 tentative allocations for Element 10, we propose to take the following action:

1. Program our Element 1362 funds into Program Administration.
2. Consider programming some JOM contract funds into program Administration for the purpose of JOM contract monitoring.
3. Discontinue Learning Center Contracts at the Skokomish and Chehalis Reservations.
4. Discontinue Adult Education Contracts at Quinault, Makah, Shoalwater, Squaxin Island, Lower Elwha and Quileute Reservations.

Staffing of the Olympic Peninsula Education Office will consist of one (1) Professional Educator and one (1) Education Technician. This staff will manage one (1) Tribal School System Contract; four (4) JOM Contracts and four (4) on-going JOM Programs; two (2) Higher Education Grant Contracts; administer the Higher Education Grant Program to approximately 60 HEG students; manage three (3) flow-through funded contracts and provide technicial assistance to nine (9) recognized tribes within the jurisdiction of this agency.

Education Program Administrator

NOTED: John B. Burtt
Superintendent, Olympic Peninsula Agency

Ms. EDMO. There are several others.

Another one is from Bill Rifenberry from Puget Sound area, one from Northwestern Idaho Agency at Lapwai.

[The information referred to above follows:]

IN REPLY REFER TO:
Education

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
PORTLAND AREA OFFICE
POST OFFICE BOX 3785
PORTLAND, OREGON 97208

May 9, 1980

Memorandum

To: Superintendent, Siletz Agency
Spokane Agency
Education Specialist, Colville Agency
Fort Hall Agency
Northern Idaho Agency
Umatilla Agency
Warm Springs Agency
Yakima Agency
Community Services Officer, Olympic Peninsula Agency
Puget Sound Agency

From: Acting Area Education Program Administrator

Subject: 1981 Tentative Allocation - Element 10

On April 25, 1980, you were informed of the 1982 tentative allocation for Element 10. This amount is also your 1981 tentative allocation for Element 10. These amounts are listed below:

Colville	$31,570
Fort Hall	34,250
Northern Idaho	20,900
Umatilla	23,100
Warm Springs	28,300
Puget Sound	16,450
Olympic - Peninsula	20,030
Yakima	34,500
Area Office	56,600

The salary of one person currently funded from Element 10 funds was covered in each amount plus approximately $4,000 for operations. You are requested to consult with your tribe(s) and advise how you propose to staff your Education Office in the event this amount is not increased. It obviously will not meet your full Element 10 funding requirement.

Contracts funded from Element 10 this year cannot be funded in F.Y. 1981 within this tentative allocation. Possible options to provide Education staff are to use funds from other Education Elements to cover salaries, or reduce the amount of recurring contracts to fund staff. The alternative is to initiate RIF action.

Your response as to what course of action you propose to take in F.Y. 1981 should reach this office no later than May 19, 1980.

Spencer Sahmaunt

Spencer Sahmaunt

IN REPLY REFER TO
Education

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Northern Idaho Agency
Lapwai, Idaho 83540

May 16, 1980

Memorandum

To: Area Education Program Administrator

From: Education Specialist, Northern Idaho Agency

Subject: 1981 Tentative Allocation - Element 10

The funding situation for FY 1981 in element 10 has been discussed with the Tribes served by this agency. The consensus was that the Tribes would perfer not to lose any of the education staff.

The proposed solution is to cancel the summer camps and use the savings to fund two positions that are currently funded by element 10. This solution, along with one position funded by adult education, would allow us to retain the present staff at the Northern Idaho Agency.

David L. Bostic
Education Special st

RECEIVED
MAY 19 1980

Ms. EDMO. In our own area we have a learning laboratory contract also which many of our Indian people benefit from; I didn't state that in my summary. But we have a lot of students that their education needs are not met in the public school system. The majority of our students go to school in the public school system. They are not the answer to a lot of Indian students' education.

The Kennedy report several years ago I believe stated the problems that we had due to discrimination. The title IV Indian Education Act was supposed to be the answer to that. But I would like to mention that those funds do not reach our level. There is no guarantee that those funds reach our level.

The only guarantee we had was in the BIA system. Part A entitlement funds does go to the local public schools. In the contract schools then there is entitlement just to the contract school and that is it. But B. & C., there is no guarantee. We submit proposals and we are lucky if they are funded, but there is no guarantee.

Mr. KILDEE. Why would these programs have been cut when the BIA announced the results of the manner in which they applied that original formula. Why are they funded under Element 10?

STATEMENT OF MARK TRAHANT, EXECUTIVE DIRECTOR, AFFILIATED TRIBES OF NORTHWEST INDIANS, ADVOCATES FOR INDIAN EDUCATION

Mr. TRAHANT. Mr. Chairman, there is a very important reason. The way the BIA defines their elements, element 10 is the only element in education that can be used for a total broad spectrum of education without a lifetime time barrier.

For instance, other elements have certain age groups ending at 21 years of age, element 10 does not specify any particular age. The programs can be designed for any particular need the tribe has as its priority, such as learning centers which are basically adult education.

Mr. KILDEE. Do you have any suggestions how funding for these programs could be moved into other program elements? Would it take a change in those program elements?

Mr. TRAHANT. Possibly changing the age barriers so they can be used for the sweeping type of programmatic use.

Mr. KILDEE. Would you support doing that or do you feel that would lead to dilution of funds unless adequate dollars were to follow that change in funding?

Mr. TRAHANT. If adequate dollars followed it, fine.

Mr. KILDEE. If the same amount of dollars were there and other people included those who are 21 and beyond, were included you would fear——

Mr. TRAHANT. It is my understanding at this point they have already indicated there would be no further contracts out of element 10, the ones that are there are already 10, we just can't afford any more. It is already a dollar situation.

Mr. KILDEE. In other words, Element 10 is the element broad enough to cover those programs so that is the one used.

What kind of things should the Bureau be doing to make sure that in the future tribes are kept better informed?

Do you have any suggestions as to what might be done?

Mr. TRAHANT. I think the communications system of the Bureau really needs to be examined. Things hardly ever get communicated until after something has already occurred.

For 2 short months I served with the Bureau in the Public Information Office. So I have some understanding of their unique problems.

The problem out in the field is, you don't hear about any of these things. They don't go directly to tribes, we hear about it through other sources after the cuts have already been made, which doesn't allow the tribes too much opportunity to react.

Mr. KILDEE. Had you had any forebodings that this draconian cut was going to take place or was it just dropped upon you?

Ms. EDMO. We submitted testimony, I believe in June 1979, and at that time we knew what was going to happen. We had been trying to tell everybody but they just couldn't understand, until now finally I guess they are getting the picture. But at that time we tried to tell them that—also supplied testimony for the Intermountain School at that time. Intermountain School has a large Vocational Education Program and that was not considered in the formula also. That would have meant a phaseout of a lot of their staff and programs there.

I do not know, I am no longer on that board now, but I do know that was a large vocational program there.

Mr. KILDEE. This problem seems to have reached this level only in the one office. You had some forebodings that this would happen. Did you communicate those for a bodings to the BIA and they did not take them into consideration?

If someone got a paycheck with that much of a cut, he or she would urgently ask why. Did anyone in BIA wonder why such a huge cut was taking place?

Ms. EDMO. We told them about it, but like I said, I do not think they really understood. At that time we talked with Rick Lavis, and Earl Barlow.

There are always new people being transferred from one location to another; I believe the makeup of the task force also. I talked to some of the people that worked on the formula and I do not really feel that they understood because they don't work at the level that we do in the field. So there were some problems in explaining that to just about everybody.

We tried to tell at the time I served on the Steering Committee also of Public Law 95-561, and we tried to let them know about all of these concerns that we had at that time, but nobody seemed to listen.

Mr. KILDEE. Is there one person at BIA who looks over all these offices, looks at the formula, looks at how the application of the formula will result in a dollar figure? Are you aware of any such person?

Ms. EDMO. I do not know. I do not know the system that well. So that answer would have to come from the BIA.

Mr. TRAHANT. I would assume by the way they did not perceive their advance testimony, they also don't see their advance contracts before they are issued. So that is probably true.

There is also a problem on the communications level, the area office in particular in Portland, and the central office were trying to blame each other. Neither one of them wanted to get stuck with telling the tribes the problem. So they got so involved in telling who was at fault that I think they failed to look at the problem.

Ms. EDMO. The other thing is, when I went to Reno and talked to some of the people that work out in the field and they stated that they did have budget cuts in education also, but they didn't know what happened really. I think a lot of those people are in the same category from other areas, but they don't realize what happened.

Mr. KILDEE. I think it is really important that the central office is able to communicate how the formula should be applied, what elements are to be factored into that formula. That should be communicated in such a fashion that would make it understandable in the field. In other words, they are speaking the same language so everyone knows exactly what the formula means and what elements are included within the formula.

Two-way communication is extremely important. I think this situation indicates that that type of communication can be enhanced and would make it less likely that problems would recur.

Ms. EDMO. The other thing, I think maybe the BIA could utilize agencies like ours, regional tribal groups who can get the word out to the local level. If there is a problem elsewhere, evidently they cannot do it to each tribe, get the word out or something. There is a communication problem there.

Mr. KILDEE. Majority counsel?

Mr. LOVESEE. Thank you, Mr. Chairman.

I am particularly concerned about the failure of the Bureau to communicate, the fact that there are two formulas and how each one works, so that the tribes may take a look at it and comment based on that information.

I think that unless this is fully disseminated to the tribes, and I mean full information, it is going to be very difficult for tribes to comment on proposed regulations, on proposed formulas. They will also find it difficult to figure out how formulas are going to impact on their particular education programs. As a result, I am concerned that the Bureau will not have an opportunity to get the best input possible from the best people in a position to know.

I would like to ask if you were aware of the fact that there were two formulas and if in fact the Bureau has yet explained how the two formulas work?

Ms. EDMO. I was not aware there were two formulas. As far as I know, the only one mandated was the equalization formula for the school operations. That is the only one I knew about.

I would like to ask you, was that also mandated in the law that there be two formulas?

Mr. KILDEE. No.

The second formula for the regional office administrative funds was not mandated by Congress. What they have administratively decided upon they can modify. We did mandate the formula for school operations because, in the hearings held by Congressmen Blouin and Quie, they found there was really an inconsistency in

the distribution of dollars and a formula would bring some consistency to that.

We had the student formula worked out basically to handle that. In no way, either directly or indirectly, in the bill or in the report language, was there a mandate for the formula for administrative costs.

Mr. TRAHANT. In addition, I am not sure the Bureau was aware there were two formulas, because last year when they supposedly saved Element 10 funding, they had a provision in the regulations on the school equalization formula to allow the moneys to continue at an adequate level, which got us through last year on Element 10 moneys.

Mr. LOVESEE. They are currently working on a new formula, which should be ready by the end of August, if I may take this opportunity to make that public.

I think one of the concerns there is that if they do change it, since there is no legislative report language or conference guidelines, since it was simply not mentioned anyplace in any of the documents, that they be aware of the local situations such as in Portland and also in several other places such as in Minneapolis and in the eastern area. They must take those situations into consideration when they formulate their guidelines for distributing Element 10 funds.

Mr. KILDEE. The committee will be watching that very closely to make sure that there is a reasonable formula taking into consideration the various differences that exist in different offices. Your continued input to this committee will be very helpful in making sure no similar errors take place in the future. If you could alert us on a continuing basis to some possible problems that might come up, that will certainly be of help to us.

Ms. EDMO. I think it would be positive to the tribes if the Indian people are involved all the way along in the process because this is a good example of what happens when they are not really involved and those that are working out in the field are more familiar with what goes on.

Mr. KILDEE. Obviously, you can see right away just what effect that cut to $265,000 would do, probably more so than any of us here in Washington.

Ms. EDMO. I might add also that in the testimony we submitted previously that I did bring up some of the concerns we had about civil service and the gradual phaseout of civil service employees. I did submit graphs and a breakdown of all that in the Portland area office at that time. The tribes do see that as termination efforts. This is what they are against, as you well know, due to some of the other testimony that we submitted.

Mr. KILDEE. Yes. I am certainly watching that very carefully; again, continuing input on those matters will be helpful to us.

Minority counsel?

Ms. VANCE. I have no questions.

Mr. KILDEE. I believe that the witnesses and the organization, the Advocates for Indian Education, should be commended for their strong tenacity in pursuing resolution of this problem which would have been really devastating to the office in Portland. I am aware

and appreciative of the contributions that the Advocates and Warm Springs Tribe have made to this committee.

The information that was supplied enabled us to look into this matter in a very timely fashion, not at the time when it would be too late but at the time we could do something about it. Also, their forebearance and willingness to work with the committee and the Bureau even when cooperation I am sure must have meant a great deal of frustration and concern is greatly appreciated.

This situation will be resolved as we want it to be with the Portland area tribes receiving their full share of Bureau services. The Warm Springs Tribe has requested the submission of testimony for the record. The record will remain open for this purpose.

While the meeting this morning has been brief, I think the record we will have established here will be extremely important in future dealings with the Federal Government, through its agency, the BIA, and the Indian people of this country.

The subcommittee, after this very brief but meaningful hearing, will adjourn until tomorrow, at which time the Bureau will testify. I want to thank you personally again for your input.

Ms. EDMO. Thank you.

Mr. KILDEE. We will stand adjourned.

[Whereupon, at 10:40 a.m., the subcommittee adjourned, to reconvene Tuesday, July 29, 1980.]

OVERSIGHT HEARINGS ON THE IMPLEMENTATION OF TITLE XI, PUBLIC LAW 95-561—PROBLEMS IN THE BIA PORTLAND AREA

TUESDAY, JULY 29, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2261, Rayburn House Office Building, Hon. Dale E. Kildee, presiding.

Member present: Representative Kildee.

Staff present: Alan Lovesee, counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; Lisa Worthington, staff assistant; and Jennifer Vance, senior minority legislative associate.

Mr. KILDEE. The subcommittee will come to order.

This meeting of the Elementary, Secondary, and Vocational Education Subcommittee is a continuation of the hearing into the Portland area administrative funding question we began yesterday.

Today, the Bureau of Indian Affairs will address this issue and present the plans which have been formulated to see that the Portland area tribes receive a fair share of educational services. Today's panel representing the Bureau of Indian Affairs is lead by Mr. Earl Barlow, director of the Office of Indian Education programs.

Mr. Barlow?

STATEMENT OF EARL J. BARLOW, OFFICE OF INDIAN EDUCATION PROGRAMS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY CAROL BAKER, EDUCATION PROGRAMS ADMINISTRATOR; CASEY VELEZ, EDUCATION SPECIALIST; AND SUSAN L. WILEY, POLICY ANALYST-CONSULTANT TO OFFICE OF INDIAN EDUCATION PROGRAMS

Mr. BARLOW. Thank you, Mr. Chairman.

Because of my failure to furnish the committee with accurate and timely information, I have caused the committee unnecessary confusion and for that I sincerely apologize. I certainly do want to thank you for the patience and understanding of the staff members who have worked with me to remedy this situation.

Mr. Chairman, I have a statement that I could submit for the record and answer questions, or if you like, I could read the statement. It addresses the issue for which the hearing was called.

Mr. KILDEE. Do you want to summarize the testimony or submit it for the record?

Mr. BARLOW. I will briefly summarize it.

As a consequence of Public Law 95-561, we in the Bureau of Indian Affairs began a review of a number of areas of concern such as funding of the schools, personnel, and the educational administration functions. For fiscal year 1980 a task force developed an interim administrative cost formula, and for fiscal year 1980 the areas and agencies were funded on that basis.

For fiscal year 1981 there was a great deal of concern expressed by various Indian groups and tribes in the Portland area regarding a projected 60-percent reduction in the education administrative funds for fiscal 1981 for the Portland area.

The concern came about because of information contained in the fiscal year 1981 budget justification book for the Bureau of Indian Affairs. The projected allotments for Element 10 funds were based on fiscal 1979 actual expenditures for direct administration.

The situation which arose with respect to the Portland area funding came as a result of two factors. First of all, the fiscal year 1979 base figure for direct administration expenditures in the Portland area was incorrect. Now we did seek this information from the area office. It was reported to us, we resubmitted it for verification and it was verified. But, nonetheless, it still represents incorrect, erroneous kinds of base figures.

Second, the projected allotments did not specify funds for Public Law 93-638 contracts for Element 10.

What we have done to remedy this is substitute the correct fiscal year 1979 base figures and make a determination on that basis.

Also, one of the things that did occur out at the area level was they added their carryover funds and IMPL funds, as we call it, to that figure. This inflated that figure which in turn decreased or deflated the direct administration amount. When we took the 85 percent of that as required by the regulations, we came out with an erroneous figure.

We have been in communication with the tribes and groups out there in our efforts to correct the situation and we will continue to do so.

[The prepared statement of Earl J. Barlow follows:]

PREPARED STATEMENT OF EARL J. BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, DEPARTMENT OF THE INTERIOR, JULY 29, 1980

Mr. Chairman and Members of the Committee, I welcome the opportunity to appear before you to discuss your concerns about education funding by the Bureau of Indian Affairs for the Portland Area.

I am aware that concern has been expressed by various Indian groups and tribes in the Portland Area regarding a projected 60 percent reduction in Education Administrative Funds for fiscal year 1980. The projected allotments for Element 10, Education and Training-General, funds were based on fiscal year 1979 actual expenditures for direct administration.

The situation which has arisen with respect to the Portland Area funding projections for Element 10 results from two factors.

(1) The fiscal year 1979 base figure for direct administration expenditures in the Portland Area was incorrect;

(2) The projected allotments did not specify funds for Public Law 93-638 contracts for Element 10.

The fiscal year 1979 direct administration expenditure was calculated by deducting the fiscal year 1979 Element 10 contract amount from the total Element 10 allotment. The contract amount reported included not only fiscal year 1979 funds

but carryover funds and IMPL funds. The inclusion of these funds artifically inflated the contract amount and therefore the direct administration amount was deflated.

However, since an inflated contract amount was allotted in fiscal year 1980, this amount counterbalanced the reduction in direct administration funds.

The projected distribution of Element 10 funds shown in the fiscal year 1981 budget justification was based solely on the direct administration amount. Since the projection does not include contract funds, the Portland Area would not have funds to counterbalance type loss of direct administration funds in fiscal year 1981 if this projection were implemented.

I have proposed a revised budget projection for the distribution of element 10 funds. This projection reflects the corrected fiscal year 1979 base amount for direct administration in the Portland Area as well as an amount for Public Law 93-638 Element 10 Program contracts.

The final distribution of funds for fiscal year 1981 will be based on verified cost data for administration and contracts, an analysis of the staffing patterns necessary to provide equitable education adminstrative services, and the availability of funds by appropriation. We are in the process of centralizing information on education administrative staffing and cost factors in order to assure that a similar miscalculation does not occur in subsequent budget cycles.

I assure you that any decisions with respect to these issues will be made only after consultation with affected Indian tribes and groups.

This concludes my prepared statement and I will be pleased to respond to any questions the Committee may have.

Mr. KILDEE. Is that your statement?

Mr. BARLOW. Yes, Mr. Chairman.

Mr. KILDEE. Thank you very much.

With you are Carol Baker and Casey Velez. I should have called attention to that myself.

I would like to discuss two major areas. All human beings and all human organizations are in constant flux toward improvement. This subcommittee in its oversight hearings has worked closely not only with the BIA, but also the Department of Education, and the Office of Indian Education, to try to move toward that perfection. That is the purpose of these hearings.

It would seem to me that the errors that were made in the original figure of $265,000 later readjusted to 616,000 would indicate at least an inadequate management information system and inadequate communication between BIA divisions.

Would you care to comment on that?

Mr. BARLOW. I think on the basis of my experience, Mr. Chairman, the one aspect that has come to my attention is that in the past, and at the present time, there has been no centralized system for determining the funding for these 638 contracts, for one.

Now this is an area function. The areas have control over this. I do think that this is one area that we are going to have to begin to build the framework for some communications and coordinations.

Public Law 95-561 mandated a formula for the schools, for distribution of dollars to the schools, because before Public Law 95-561 there was really little appearance of rhyme or reason in the manner in which the dollars were distributed. Then the BIA decided to apply a formula for administrative factors here, too.

Mr. KILDEE. Have you made any adjustments to that formula and have you communicated well with the various area offices as to the components that should be fed into that formula?

Mr. BARLOW. We have this under development with our consultants, the National Conference of State Legislatures. I think you are absolutely right, one of the things that become apparent to us

was that in the past there really had been no direct relationship between the size and the nature of the services administered.

For fiscal year 1981 we are determining how to equitably distribute these administrative funds on the basis of education functions. I know Ms. Baker has been working on this. Why don't you explain a little further.

Ms. BAKER. These recommendations are coming in as a result of the analysis of current expenditure patterns. Data has been collected by our contractors and is being analyzed.

Under the terms of the contract their initial recommendations are due to us for review by the 31st of this month, and we will review it, send it back to them for polishing, and we will be publishing a revised administrative formula for 60 days of public comment at that time.

Mr. KILDEE. So they will have comment on the formula or the manner in which you intend to distribute the administrative funds?

Ms. BAKER. That is correct.

Mr. KILDEE. What was the date they will have their comments?

Ms. BAKER. The initial recommendations are due on July 31. It will be, I am sure, a good 2 months after that before we have anything actually published by the time we bounce it back and forth and polish it up.

Mr. KILDEE. I think this process of getting comments will help reduce the incidence of situations similar to that in the Portland office. I think whenever one is reading from the same Bible it is a lot better than reading from one version and someone reading from another version. You know exactly of what you speak then.

When the figure under the formula which you applied, even with faulty data which led to that figure, came to $265,000, wasn't there some concern in your office that that figure was quite low compared to what they had been receiving in past years?

Very often one can look at a bottom line, know that something is wrong, and be alerted to try to walk through what led to that bottom line.

It would seem that someone in the agency would have done this. When was it first caught?

Mr. BARLOW. I think one of the problems, too, was that the amount of the 638 contracts was not included in addition to this $265,000.

When the budget justification book was put together, it represented a projection. We wanted to indicate to the proper authorities within the Congress that we were concerned about this and we were addressing it. It is unfortunate that, again, based on the information filed with our office, this $265,000 was used.

It was immediately called to our attention by the various tribal groups out in the Portland area that this indeed was much too low to meet their needs and we began to address this issue. Again, one of the first things we did was request the pertinent kinds of information from the Portland area that would enable us to address this issue. We did experience some communication problems.

For example, we called for the information on the Public Law 93-638 contracts. There seemed to be a misunderstanding out there as to just essentially what we wanted.

I think we had this called to our attention early in the spring and really have been trying to come to grips with it for quite some time.

Mr. KILDEE. When did you get your first complaint from the tribes on this? I am trying to rebuild the time frame here.

Mr. BARLOW. I believe it was early—in December when we had a meeting with the area director from Portland, we discussed the initial concerns we had for fiscal year 1980, and from that time on have been sort of monitoring it and trying to make certain that we would be able to correct it.

One of the breakdowns of communications, again, that developed was this interim administrative cost formula. For some reason people got the idea, even in my office, that this was going to be the formula that would determine the future allotments. And I guess where we failed to maybe notify everyone was that the new formula that we would be looking at for the distribution of these administrative funds to the areas and the agency education offices would be based on the education functions. This is what we were doing.

Mr. KILDEE. Let me ask you this: Two of the area offices, Portland being one, used part of the Element 10 money for some programs and apparently the other area offices do not; is that correct?

Mr. BARLOW. Yes.

Mr. KILDEE. When you devise the formula, how do you take into account the fact that some are using Element 10 moneys for programs because they have greater flexibility within element 10 and others are not? If you are really distributing moneys for administrative purposes and it is being used for program purposes, you have to take that into account in some fashion, do you not?

Mr. BARLOW. Right.

Mr. KILDEE. How do you do that?

Mr. BARLOW. Well, initially for fiscal year 1980, I believe the central office was not totally aware of all the 638 contracts. When they came to our attention, in the neighborhood of over $1 million, the decision was made within the department that the—at the Deputy Assistant Secretary's level—that these contracts be funded because they determined that it required 120 days notice to terminate them, and they had already begun to implement the contracts. So they were funded.

The rules and regulations called for these contracts to be submitted to the office of the Director of the Office of Indian Education programs to make determinations as to, were they administrative in nature or programmatic in nature?

Carol, did you work on that specifically for 1980?

Ms. BAKER. Well, not directly. We decided that during fiscal year 1980 we were going to have to review these contracts again. The initial review of the contracts took place at the area offices and as a result, of course, people being human, the majority of the contracts were funded as being appropriate.

What we have asked this year is that we look at them again and determine where the appropriate funding should come from.

Many of these are community education type, or social services type contracts, and education and training, general, is not necessarily an appropriate category of funding. But we need to get this

built into future budgets in an appropriate line item so that they can be properly funded in the future.

Mr. KILDEE. You are saying, then, that rather than taking money from Element 10, there should be a steady and reliable source of money from another element to fund those programs?

Ms. BAKER. That is basically my recommendation. I would suspect that Element 10 funds would be reduced but not perhaps by the total amount of the contract since a number of the dollars involved in the contract are also administrative dollars.

Mr. KILDEE. What would the reaction of the Portland office be to that?

Ms. BAKER. In conversations there is no problem. Their concern is getting the funding. They are not concerned that it stay in the same line item.

Mr. KILDEE. In other words, have they indicated to you that if they were assured of adequate funding for these other programs that are now funded out of element 10, adjustments could be made accordingly? Have you had assurances from them on that?

Ms. BAKER. Well, yes. Again, they need a certain number of dollars for these program contracts. If they get it from another source, they would not need it from element 10.

Mr. KILDEE. And you have discussed that with them?

Ms. BAKER. Yes.

Mr. KILDEE. And they are in agreement with that?

Ms. BAKER. As far as I can tell. I have heard no disagreement.

Mr. KILDEE. It is extremely important that they know what you propose to do and that they can in turn react to it. Because I know people fear having one source or one element funded less with the promise of another element taking care of that and something slipping between the cup and the lip. That does happen in Government. I think I can understand why they would have certain fears.

Mr. Lovesee, do you have any questions?

Mr. LOVESEE. Thank you, Mr. Chairman. I was wondering if the Bureau could walk us through the process? We provided a blackboard, if that is necessary, or else verbally walk us through the mathematics involved with this particular state of affairs.

Mr. BARLOW. Mr. Chairman, Counsel, I did ask Susan Wiley, who is an employee of the National Conference of State Legislatures who is employed as our consultant, to be here. I think this would be a very appropriate time since she has really done a lot of the work on this. So if it is permissible, I would ask Miss Wiley to do that very thing.

Mr. KILDEE. Certainly. We would appreciate that. If you find using the board helpful, you may do so.

Ms. WILEY. One question. Do you want me to go through the way the interim formula works and explain how we came up with this problem in the first place?

Mr. LOVESEE. Either that or just dealing with the specific problem, whichever you feel is better.

Ms. WILEY. First of all, to respond to the question concerning the reason that the task force that developed this formula looked at administrative funds in addition to funds for the schools, we had a situation when we looked at how much money was actually going into administration in Bureau area offices and agencies where we

discovered that in two areas there was a total of $3 million coming out of school operations money that was being used for administration.

This was primarily a result of the mechanism by which the funds had been appropriated. It was not so much that people were ripping off the schools, so to speak, in order to fund administrative services.

The reason that the task force felt they had to do something on an interim measure for administration was in order to take care of the situation in these two areas, to allow some Element 10 funds to flow to pay for administration there.

Basically, what the interim formula did was determine, based on the number of schools, the number of students, the amount of Johnson-O'Malley and higher education and adult education money being administered within the areas and agencies, the amount of funds that an area should receive areawide for administration.

Then we determined what the actual fiscal year 1979 direct administrative amount was. Each area was limited to no more than a 15-percent reduction in direct administrative funds areawide.

The problem that arose in Portland came as a result of determining this fiscal year 1979 direct administration amount. I do not have the numbers right in front of me, but just hypothetically, when you, from financial management, say that Portland received $1 million in Element 10 funds for fiscal year 1979, we requested information from the area office as to the number of Public Law 93-638 contracts that were being funded from Element 10 and their fiscal year 1979 funding levels.

What the area office provided us with was a list that totaled approximately, say, $700,000.

We made an assumption that if this amount went into contracts, then the residual from the total allotment of $300,000 was the direct administrative amount and there was the amount that was used in determining the 15-percent loss for direct administration.

So Portland received a contract amount plus the 15-percent loss on this derived direct administration amount.

What in fact happened when they reported the contract amount, it included in addition to fiscal year 1979 Element 10 funds, appropriated by Congress, IMPL money in Element 10 and carryover funds from previous fiscal years which inflated this amount that was listed for contracts.

Since we determined the direct administration amount by simply taking this figure from one, this number of the direct administrative amount was therefore deflated as a result.

As far as funding for the area went, it is my understanding that given the funds that they receive, since they received their contract amount, less the congressional appropriation reduction which was prorated across all recipients of Element 10, as well as the amount for direct administration less 15 percent, that they had sufficient funds for fiscal year 1980 to fund the full direct administration amount as well as the contracts.

When the budget was developed projected for fiscal year 1981, it was based on this figure only, $300,000. The contract amount was not specified in the budget directly, although I understand that it was included in central office funds, with the assumption that on

review, after review of these contracts, decisions would be made about appropriate funding components for them and they would be moved after a determination made about where to fund them.

So when the budget justification was published and distributed to the field, the only thing that was evident for the Portland area was based on this erroneous direct administration figure of $300,000 from fiscal year 1979, which as you can see would represent approximately a 60-percent loss.

Now, as I say, these numbers are hypothetical but I think they bear close resemblance to what the actual figures were.

Mr. BARLOW. Excuse me, Susan. Just one question. Did we ever verify whether or not in the Portland area they did transfer positions from Elements 13 and 14 to Element 10?

Ms. WILEY. OK. This was another problem that arose in implementation of this mechanism for fiscal year 1980. In fiscal year 1979 the Portland area had some personnel at the agency that were funded out of Element 13, which is the continuing education component. They were transferred, at least on budgeting purposes, from Element 13 to Element 10 for fiscal year 1980. This was information that the task force was not aware of.

So that is another reason that we have the direct administration amount deflated because we had an increase in personnel as well as an inflated amount for contracts.

Now Element 13 was not affected by Public Law 95-561—this is the adult education component—our funding element for the bureau, that is.

Mr. KILDEE. What would the figure of have been had they used only the components that should have been used and not some of the others?

Ms. WILEY. The amount of contracts, I believe, was about $400,000, which would have meant that the direct administration amount was——

Mr. KILDEE. $600,000, which is close to the figure that we agreed that they should be getting; is that correct?

Ms. WILEY. Yes, sir.

Mr. KILDEE. So the problem lies, then, in components that were included in that $700,000 which you subtracted then from the million and in your hypothetical figures that led to the erroneous answer there?

Ms. WILEY. Yes, sir.

Mr. KILDEE. I think that is a clear presentation of what did happen there.

I, again, would think that when that $300,000 figure appeared in the central office, that someone should have noticed that there was something wrong, and checked and verified.

Ms. WILEY. Mr. Chairman, this amount, the $700,000, was included in the budget projection for the central office with the assumption that these contracts were going to be reviewed and then funded, this money would be transferred to appropriate funding components to fund them.

But the only thing that actually showed up in the budget was the $300,000. As far as the financial people in education could determine, the $300,000 was a fair figure because they knew that Portland had received, say, approximately $1 million in fiscal 1979.

However, they also knew that they had included in the central office projection the amount for contracts and there was an assumption made that this $300,000 was in fact sufficient for the direct administration.

The real issue is a lack of centralization of information. I think that, given the organizational structure, it is very difficult to tell how many people and where they are working as far as bureau administration is concerned for education. I think Mr. Barlow is working now on restructuring the system so that he can make some decisions based on what actual needs and functions are and prevent a problem like this from ever occurring again.

Mr. KILDEE. Did those who read the $300,000 figure feel then that the $400,000 would be supplied from other sources?

Ms. WILEY. That was not specified in the budget justification, no, sir.

Mr. KILDEE. I see.

Ms. WILEY. It was an assumption that was made by the people that put the budget together, but it was not expressly stated.

Mr. KILDEE. But it should have been?

Ms. WILEY. It should have been, yes.

Mr. KILDEE. That is where we find the——

Ms. WILEY. We have that problem as well as the problem of the deflated figure in direct administration.

Mr. KILDEE. You define two errors taking place, then, that led to this rather sorry state of affairs. They must have been really shaken when they received that figure?

Ms. WILEY. I am sure they were.

Mr. KILDEE. I think we have a clear picture now of exactly what happened. I think what we have to do in BIA's central office is take steps to make sure there is more centralized verification of these figures, centralized decisionmaking, and some real watching. Simple objective alertness would lead to that.

But I think the fact that that figure itself did not alert us indicates there has to be some greater centralization in arriving at these figures. Then we wouldn't have to depend upon just that bottom line red flag.

I urge you to do that and to take steps to make sure that such situations don't happen again.

Mr. BARLOW. If I may also explain, when you are dealing with these kinds of figures, we have five other areas that had direct administration of less than $300,000. So it really didn't throw up a red flag immediately.

Mr. KILDEE. Yes. But when you compare Portland with Portland in a sense——

Mr. BARLOW. That is true.

Mr. KILDEE. Had the proper centralization taken place, we would not have come to that figure in the first place. Quality control all the way down the line is important.

Mr. BARLOW. I certainly agree with you, Mr. Chairman.

Mr. KILDEE. I have the budget justification for Element 10. We are trying to create a record for the proper purpose here, again, of serving the Indian tribes justly, fairly, and adequately. I would like to introduce this into the record.

Would you say these figures are correct, subject, of course, to the appropriations and to the information verification?

Mr. BARLOW. Yes, sir.

Mr. KILDEE. They will be made part of this record, then, along with the statement from Mr. Barlow that those figures are correct, subject to appropriations and the information verification?

Mr. BARLOW. Yes. Also, Mr. Chairman, I did meet with the staff of the House Committee, House Subcommittee on Interior and Related Agencies to explain how this item appeared in our budget justification and requested permission to seek an updating of it. They agreed to this.

In fact, I was advised that in the future that possibly the Bureau of Indian Affairs should not include this kind of detailed information in a budget justification, that we just include our line item. What they felt was that there would be a process of adjustment back and forth.

But as I stated originally, my intent was to demonstrate that we were attempting to address a number of these kinds of issues and concerns and one of the ways was to include it in the budget justification.

Mr. KILDEE. I am sure that goodwill has prevailed here. I can certainly understand the deep concern of the people in Portland when they saw that figure. Rather than a question of ill will, it is a question of really sharpening up the operations within the central office. That is a constant thing. I constantly try to sharpen up the operations in my own office. We do it in our own lives. I certainly urge you to take steps to do that.

Mr. Lovesee?

Mr. LOVESEE. I have a question brought to our attention by some members of the tribes in the Northwest area. Will the new formula for the distribution of the Element 10 administrative funds take into consideration the number of tribes in an area, the actual physical area involved, including distances between reservations and number of reservations?

Also, to a certain extent, the bureau tasks involved with the administration, et cetera, of letting of Public Law 93-638 contracts?

Mr. BARLOW. I would like to defer that to our consultant who put this together. At this time, I am not aware of all of the factors that she has put in. What are some of the factors?

Ms. WILEY. Yes, all of those factors will be considered in addition to the functions that are required that have to be performed by various administrative units, the number of contracts that are administered as well as the amount of contract funds.

Mr. LOVESEE. Also, if I may, will the upcoming publication of the new administrative formula involve a direct mailing in addition to publication in the Federal Register. Some tribes have expressed concern that they do not have direct access on a regular basis to the Federal Register?

Ms. BAKER. Yes, just as the previous publications have been mailed to all tribes and most tribal organizations, so this one will be, also.

Mr. LOVESEE. Thank you, Mr. Chairman.

Mr. KILDEE. I would like to thank, first of all, the Advocates for Indian Education who testified yesterday and provided very valua-

ble insight to this committee. I want to thank also the Warm Spring Tribe for their testimony which will be made part of the record.

I would like to commend the Bureau of Indian Affairs, especially Mr. Barlow, in this matter. To err is certainly human, and that is why most pencils have erasers at one end. But to admit one's mistake, especially for an agency, within that agency context, is very refreshing in Government.

I think the open and forthright manner in which the Bureau investigated this problem and resolved it certainly serves to improve its standing in the eyes of this committee and the eyes of the Congress.

Thank you very much. Thank all of you.

We stand adjourned.

[Whereupon, at 2:40 p.m. the subcommittee adjourned.]

[Material submitted for inclusion in the record follows:]

PREPARED TESTIMONY OF WARREN R. CLEMENTS, MUNICIPAL MANAGER, THE CONFEDERATED TRIBES, WARM SPRINGS RESERVATION OF OREGON

Mr. Chairman, my name is Warren R. Clements, Municipal Manager of The Confederated Tribes of the Warm Springs Reservation of Oregon. On behalf of our Tribal Council, I appreciate this opportunity to present our statement.

To build a perspective, our concern emanates from the sovereignty status established by the Treaty of 1855 and the protection of our trust relationship with the Government of the United States. Basic to this concern is the role of the Bureau of Indian Affairs as the agency vested with the responsibility of servicing that trust relationship.

We are keenly sensitive to actions and policies that may erode the Bureau of Indian Affairs' ability to fulfill that responsibility. The present policy of self determination holds great promise for tribes to work with Federal and State Governments in a partnership to accomplish desirable ends. This policy must be given the necessary legislative and executive support to succeed in meeting the intent of Congress in passing the Indian Self Determination and Education Assistance Act (P. L. 93-638). However, well-intentioned legislative efforts in P. L. 95-561 are making only partial headway. As I testified before this Committee regarding that legislation:

> H. R. 9810 misses the mark in accomplishing adequate legislative reform. Where administrative discretion already exists to accomplish the proposed change, federal legislation is neither necessary nor desirable.
>
> H. R. 9810 is premature in that it effects sweeping reorganizations in Indian education programs within the Bureau of Indian Affairs at a time when a systematic evaluation of the Bureau is taking place.

Further, the administrative composition of the Bureau of Indian Affairs is such that it prevents good long range planning and the smooth continuity of implementation necessary for the success of any program. Tribal Council Chairman Eugene Greene emphasized this problem in his testimony before the BIA Reorganization Task Force in February of 1978, stating

While there are many able and dedicated employees in the Bureau, it has suffered from a lack of continuity in direction, long range planning and clearly expressed policies. In our view, the major problems of the Bureau are these factors, rather than the organizational structure. Improvements must come in these areas.

The problem that originally brought about this hearing -- an inequitable allocation of education administration funds to the Portland Area Office -- has fortunately been resolved. Through the good efforts on behalf of the Warm Springs of Senators Mark Hatfield, his staffers Susan Long and Greg Doublestein, Congressman Al Ullman and staffer John Shank, Alan Lovesee of this Committee staff, BIA Education Director Earl Barlow, and Portland Area Director Vince Little, Indian education in the Northwest will not have to face the debilitating reduction in administrative funding. This, of course, is not to diminish the substantial efforts made by numerous other parties who share our deep concern over this situation.

The Indian Basic Education Act represents a well intentioned effort on the part of Congress to upgrade the quality of education for Indian people. Part A increases the amount of P. L. 81-874 funds to school districts serving Indian children and affords tribal communities a limited degree of control over the use of these monies. Part B legislatively reorganizes the operation of the Bureau of Indian Affairs' Indian Education Programs and Part C re-authorizes the Indian Education Act of 1965, Title IV, P. L. 92-318, which is under the purview of the U. S. Office of Education, formerly in the Department of Health, Education and Welfare.

An attitude or mood for operation can be extracted from these provisions that implies a flexible approach to implementation of programs operated by the new Department of Education, P. L. 81-874 and Title IV programs. However, a stringent approach is outlined for the Department of the Interior for the implementation of Bureau of Indian Affairs Indian Education Programs. This could lead to a self-fulfilling prophecy of failure, justifying the transfer of its education programs to the Department of Education.

The Bureau of Indian Affairs used a series of task forces to provide input into the development of rules and regulations to comply with the intent of Title XI of P. L. 96-561. The Allotment Formula Task Force used as its guide Section 1128 (which emphasizes school operations) in drafting the Indian School Equalization Program. There was a lack of specific language in the Act and a subsequent lack of action by the

task force and the Central Office to address non-school operations in the deliberations of allocating administrative funds. The remedy to this situation, which has not yet been utilized, is contained in Section 31 H 128 of the Federal Register (Vol. 44, #209) dated October 26, 1979. The rules and regulations implementing the Indian School Equalization Program state:

> The Director shall propose amendments to these regulations to provide a formula system for distribution of administrative funds to Area and Agency Education Offices based on education functions to be performed at each location. This system of distribution shall be implemented for FY 1981, to reflect the education functions to be performed at each administrative level.

The identification of functions and establishing threshold funding under P. L. 95-561 must not penalize tribes and areas where Bureau-operated or funded schools are not heavily relied upon. The identification of functions must include the total mission of the Bureau of Indian Affairs field personnel efforts to work with tribes, public, and private educational institutions.

Congress' intent to improve Bureau-operated education programs through the provisions of P. L. 95-561 are going astray. Direct line authority was to have been a benefit. However, the line authority change has separated the Education Division from necessary administrative support divisions. The administrative and budgetary separation of the Education Division does little to enhance effective planning because of the further fragmentation of education funds into administrative, formula and band analysis allocations. Unclear lines of authority are causing anticipatory, fragmented and reactive planning.

As a result of the administrative separation of education within the BIA mandated by P. L. 95-561, problems such as the following have been created:

-- Frustration for tribes and BIA to succeed;

-- Retention and recruitment of quality personnel inhibited; and

-- Communication, planning and coordination ineffective.

After analyzing the present status of Indian Education pursuant to the implementation of P. L. 95-561, it is recommended that:

1. The Director of the Office of Indian Education Programs expedite adoption of a formula to distribute education administration monies by function and to establish threshold funding for the maintenance of those functions.

2. The language of P. L. 95-561 be re-examined and tribal consultation be sought to amend the present statute and implementation regulations.

3. The adoption of a legislative and executive policy that no consideration be given for the transfer of Bureau of Indian Affairs Education Programs into the new Department of Education.

4. There be a legislative and executive recognition and support to provide adequate resources to the Bureau of Indian Affairs for the effective execution of its educational responsibilities. It has already come to our attention that the House Interior Appropriations legislation for Fiscal Year 1981 is cutting the Bureau's overall education administration budget by $500,000. The Committee report directs that this reduction be applied principally toward equipment and supplies, and that it not affect personnel levels. With the Bureau's education administration budget already stretched thin, we oppose this reduction. The effectiveness of education administration will be handicapped if they are denied the necessary materials to carry out their job.

5. Establish a monitoring system to examine the equity and effectiveness of legislative, administrative and technical support being given to P. L. 81-874, Title IV relative to the Bureau of Indian Affairs meeting the intent of P. L. 95-561.

○